

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2021-15-C – ORDER NO. 2021-336

JUNE 3, 2021

IN RE: Application of CarolinaConnect Cooperative, Incorporated for Designation as an Eligible Telecommunications Carrier in the State of South Carolina) ORDER DESIGNATING) CAROLINACONNECT) COOPERATIVE, INC. AS) AN ELIGIBLE) TELECOMMUNICATIONS) CARRIER
---	--

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the Application of CarolinaConnect Cooperative, Inc. (“CarolinaConnect”, “Company” or “Applicant”) for designation as an Eligible Telecommunications Carrier (“ETC”) in the State of South Carolina for the certain service areas (the “Application”). These certain service areas comprise the eligible census block(s) that have been provisionally awarded to the Company as a winner in the Rural Digital Opportunity Fund (“RDOF”) Phase I auction (“Auction 904”) through the RDOF Phase I support by the Federal Communications Commission (“FCC”).

The Company seeks designation as an ETC pursuant to Section 214(e)(2) of the Telecommunications Act of 1996 (“Telecommunications Act”), as amended, and Section 103-690 of the South Carolina Code of Regulations (“Regulation(s)"). The Company's receipt of RDOF Phase I support is contingent, in part, on receiving an ETC designation from the Commission by June 7, 2021.

As part of its ETC Application, the Company requests waiver of Regulation 103-

690.C.(b) to the extent it would prohibit designation as an ETC in an area smaller than a wire center. The Company further requests expedited consideration of this matter and waiver of the formal evidentiary hearing.

For the reasons explained herein, the Commission has concluded that the Application, together with certain Regulation waivers, should be approved on expedited basis and that such designation of CarolinaConnect as an ETC on the terms provided in this Order would serve the public interest. Upon review of the Application and all of the supporting documents submitted by the Applicant, and for the reasons explained in this Order, the Commission concludes that the Application and certain Regulation waivers should be approved and that designation of the Company as an ETC on the terms provided in this Order would serve the public interest

I. BACKGROUND

On January 30, 2020, the FCC established the RDOF plan to ensure continued and rapid deployment of broadband networks to unserved Americans.¹ RDOF will commit up to \$20.4 billion over ten years to support the availability of high-speed networks in rural areas of the United States. The FCC released the RDOF Closing Public Notice² on December 7, 2020, announcing the conclusion of Phase 1 of Auction 904. Phase I committed up to \$16 billion over the next ten years.

¹ See *Rural Digital Opportunity Fund; Connect America Fund*, Order, 35 FCC Rcd 686 (2020) (“*RDOF Order*”).

² See *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 2021*, AU Docket No. 20-34, WC Docket Nos. 19-126 and 10-90, Public Notice, DA 20-1422 (rel. Dec. 7, 2020) (“*RDOF Closing Public Notice*”).

CarolinaConnect filed its verified Application (“Application”) for designation as an ETC pursuant to Section 214(e)(2) of the Telecommunications Act of 1996 (“Telecommunications Act”), as amended, and Section 103-690 of the South Carolina Code of Regulations (“Regulation(s)”) on December 31, 2020. 47 U.S.C.A § 214(e)(2) (West); S.C. Code Ann. Regs. 103-690 (2012). The Company’s receipt of RDOF support is contingent, in part, on receiving an ETC designation from the Commission by June 7, 2021.

CarolinaConnect requests waiver of Regulation 103-690.C.(a)(1)(B), regarding submission of a two-year plan.³ S.C. Code Ann. Regs. 103-690.C.(a)(1)(B) (2012). The Company further requests expedited consideration of this matter and waiver of the formal evidentiary hearing.

On January 14, 2021, the Clerk’s Office issued the Notice of Filing and Hearing and Prefile Testimony Deadlines.⁴ The South Carolina Office of Regulatory Staff (“ORS”) is a statutory party in this matter. See S.C. Code Ann. § 58-4-10(B). No comments or petitions to intervene were received in response to the notice. Thus, all interested persons have been afforded an opportunity for a hearing, as required by S.C. Code Ann. § 58-9-280(B), Section 1-23-320(a) of the South Carolina Administrative Procedures Act, and constitutional due process. Proceeding without a formal hearing in this matter would serve the public interest in administrative efficiency.

On March 15, 2021, a Stipulation entered into between the Company and the ORS

³ Additionally, in the Stipulation, the Company requests waiver of Regulation 103-690.C.(a)(1)(B), regarding submission of a two-year plan, and Regulation 103-690.1.B.(b)(1), regarding updates to the two-year plan. S.C. Code Ann. Regs. 103-690.C.(a)(1)(B) & 103-690.1.B.(b)(1) (2012).

⁴ CarolinaConnect did not submit a proof of publication filed with the Commission.

was filed with the Commission (“Stipulation”). The Stipulation recommends that the Company be designated as an ETC in accordance with the terms of the Stipulation. A copy of the Stipulation is attached hereto as Order Exhibit A.

The Company filed the verified direct testimony of D. Glenn Martin in support of the Application on February 19, 2021. The Company was deemed a winning bidder for two hundred twenty-seven (227) eligible census blocks in the census block groups identified in Exhibit A to the Application, which is attached as Order Exhibit B. The Commission held oral arguments on March 15, 2021, regarding the Company’s request for expedited review, requesting that the Commission waive a formal hearing and approve the Application and requested waivers. The ORS did not object to the request for expedited review of the Application and requested waivers conditional upon the executed Stipulation.

Having considered the record before it, the Commission finds that it is sufficient to make a final determination in this matter and that the interests of judicial economy are served by waiving the formal hearing and granting expedited consideration.

II. ANALYSIS

Section 214(e)(2) of the Telecommunications Act authorizes state commissions to designate common carriers that meet the applicable requirements as ETCs. 47 U.S.C.A. § 214(e)(2). Regulation 103-690 provides that the Commission will fulfill its responsibility to designate common carriers as ETCs, and establishes the requirements that an applicant must meet in order to be designated an ETC for the purpose of receiving federal universal service support pursuant to Section 214(e) of the Telecommunications

Act. See, 47 C.F.R. § 214(e) (West) and S.C. Code Ann. Regs. 103-690 (2012).

As demonstrated in the Application, the Verified Testimony and the Stipulation, the Company satisfies all the relevant requirements for designation as an ETC specified in Sections 254 and 214 of the Telecommunications Act and Regulation 103-690. For participation in the RDOF program the Company is a common carrier as defined by 47 U.S.C.A. § 153 (11), and will offer all the voice and broadband internet services supported by federal support mechanisms either using its own facilities or combination of its own facilities and resale of another carrier's services, and advertise the availability of its offerings and charges through media of general distribution. See, 47 C.F.R. § 153 (11)

The Company has:

- certified that it will comply with the service requirements;
- demonstrated its ability and commitment to remain functional in emergency situations;
- demonstrated its commitment to satisfy applicable consumer protection and service quality standards, including annual certification of its compliance and reporting of consumer complaints in accordance with Regulations 103-690.C(a)(3) and 103-690.1B(b)(4), S.C. Code Ann. Regs. 103-690.C(a)(3) & 103-690.1B(b)(4) (2012);
- demonstrated that the Company is financially and technically capable of providing the service;
- demonstrated that it will provide local usage plans comparable to the incumbent local exchange carriers already operating in the area; and

- committed to comply with applicable federal and state reporting requirements including, but not limited to, submitting reports regarding unfulfilled service requests under Regulation 103-690.1.B.(b)(3) and other annual reports required by Regulation 103-690.1. S.C. Code Ann. Regs. 103-690.1 (2012).

Additionally, in accordance with 47 C.F.R. § 54.101(d) and Regulation 103-690.1.E, the Company will offer voice and broadband internet access service to low-income customers in the RDOF designated service area. See, 47 C.F.R. § 54.101(d) (West) and S.C. Code Ann. Regs. 103-690.1 (2012).

Considering these factors and others, the Commission determines that it is in the public interest that the Commission grant the Company designation as an ETC for the purpose of providing voice and broadband internet access services.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Application, pre-filed testimony, and Stipulation are accepted into the record without objection.
2. Since this matter is uncontested, ORS does not oppose the Application and waivers, and the Company otherwise meets the requirements for designation as described below, expedited review should be granted.
3. The Company meets all federal and state requirements for designation as an ETC in the proposed areas where it seeks designation, with the exception of those requirements for which waiver is requested and specifically granted, as included herein.
4. The Commission grants the Company's request for a waiver of the

requirement to file a two-year plan describing proposed improvements or upgrades to its network. The Commission may waive a rule or regulation where circumstances indicate that a waiver is appropriate, upon a finding that such waiver is not contrary to the public interest. In lieu of filing the two-year plan provided for in Regulation 103-690.C.(a)(1)(B), the Company shall make available to the Commission and ORS all reports it is required to file with the FCC in connection with the RDOF funding, as described above. The Company shall provide ORS with estimated timelines for each census block it proposes to serve. We conclude that providing the referenced reports to the Commission and to ORS provides a well-defined yardstick by which to measure the Company's progress towards the availability of voice and broadband service in the RDOF designated areas and is therefore an acceptable alternative to the two-year plan filing requirement.

5. The Commission also grants a waiver of Regulation 103-690.C.(b) to the extent it would prohibit designation of the Company as an ETC in an area smaller than a wire center. As described above, the FCC has established a mechanism to ensure the deployment of voice and broadband to unserved areas based on a granular analysis at the census block and location level to target funding to such areas. We agree with the Company that, if the Commission were to deny the ETC designation the Company requests at the census block level in order to obtain available federal funding to serve the funded areas, those areas likely would remain unserved or underserved. Therefore, it is in the public interest to grant a waiver of the portion of Regulation 103-690.C(b) that prohibits designating an ETC service area smaller than an entire wire center in order to allow designation of the Company as an ETC at the census block level as described herein.

6. The Commission waives the equal access requirement of Regulation 103-

690.C.(a)(5), which requires an applicant to acknowledge that the FCC “may require” it to offer equal access to long distance carriers. The Commission’s ETC regulations generally track the corresponding federal ETC regulations, and equal access is no longer a requirement under the FCC’s universal service rules, previously existing under 47 C.F.R. § 54.202(a)(5). Compare 47 C.F.R § 54.202(a)(5) (2020) with 47 C.F.R § 54.202(a)(5) (2007).

7. Granting this Application furthers the goals and purposes of Section 254 of the Telecommunications Act of 1996 in that access to the federal Universal Service Fund will ensure expanded access to voice and broadband service.

8. Granting this Application allows the Company to build out underserved and unserved areas, bringing the benefits of voice and high-speed broadband to citizens in those areas; therefore, granting this Application is in the public interest.

IV. IT IS THEREFORE ORDERED THAT:

1. The Commission adopts and approves the Stipulation executed between the Company and ORS attached hereto as Order Exhibit A.

2. The Commission grants expedited review to allow the Company to meet the federal requirement to be designated as an ETC in the RDOF designated areas identified in Order Exhibit B not later than June 7, 2021.

3. The Company’s request for designation as an ETC is granted, as of the effective date of this Order and in the requested areas identified in Order Exhibit B, for the purpose of providing voice and broadband internet access services as requested in the Application on the terms provided in the Stipulation.

4. The Company shall abide by its commitment to provide service throughout

its ETC-designated service area to all customers making a reasonable request for service, including low-income customers.

5. The Company shall make available to the Commission and ORS the reports it is required to file with the FCC in connection with the RDOF funding. The Company shall provide ORS with estimated timelines for each census block it proposes to serve.

6. Except as provided in this Order, the Company shall meet the reporting and certification requirements for ETCs as outlined by the federal requirements and Regulation 103-690.1, and file the annual reporting information with the Commission no later than June 30th of each year. A copy of this report shall also be provided to the ORS.

7. The Commission grants the Company's request for a waiver of Regulation 103-690.C.(a)(1)(B) requiring it to file a two-year plan describing proposed improvements or upgrades to its network, and of Regulation 103-690.1.B.(b)(1) regarding annual updates to the two-year plan.

8. The Commission also grants a waiver of Regulation 103-690.C.(b) to the extent it would prohibit designation of the Company as an ETC in an area smaller than a wire center.

9. The Commission further grants waiver of the equal access requirement set out in Regulation 103-690.C.(a)(5).

10. The Company shall provide voice and broadband services in conformity with 47 U.S.C.A. § 214(e)(2), 47 C.F.R. § 54.101 et seq., and Regulation 103-690.1 (E)(a) and all requirements of the RDOF program.

11. The Commission may deny the Company's annual recertification as an ETC if the Commission finds that the Company has not used the high-cost federal support

provided to the Company within the state only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

12. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



A handwritten signature in dark ink, appearing to read "Tom Ervin", is written over a horizontal line.

Thomas J. "Tom" Ervin, Commissioner
Public Service Commission of
South Carolina

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2021-15- C

March 11, 2021

IN RE: Application of for Designation as an Eligible
Telecommunications Carrier in the State of
South Carolina

) **STIPULATION**
)
)
)

This Stipulation is made by and among the South Carolina Office of Regulatory Staff (“ORS”) and CarolinaConnect Cooperative, Inc. (“Company” or “Applicant”) (collectively referred to as the “Parties” or sometimes individually as a “Party”).

Whereas, Applicant is seeking designation as an Eligible Telecommunications Carrier ("ETC") in 327 eligible census blocks located in Newberry, Lexington and Saluda Counties in order to receive federal universal service support under Sections 214 and 254 of the federal Communications Act of 1934 ("Communications Act") and pursuant to the Federal Communications Commission's ("FCC") Rural Digital Opportunity Fund Phase I (904) Auction;

Whereas, the Application was filed pursuant to § 214(e) of the Communications Act, and the rules and regulations of the Public Service Commission of South Carolina (“Commission”) and the FCC;

Whereas, ORS is a statutory party to this action. See S.C. Code Ann. § 58-4-10(B);

Whereas, no other comments or petitions to intervene were received in response to the notice of filing;

Whereas, one of these requirements is for Applicant to be designated as an ETC in each state that it received RDOF in the funded areas by June 7, 2021;

Whereas, 47 C.F.R. § 54.101(a)(1) defines voice telephony services eligible for universal service support as services that provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in subpart E. of this part;

Whereas, Section 54.101(a)(2) defines broadband Internet access services eligible for universal service support as services that provide the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service;

Whereas, the FCC does not require the Applicant to submit a five-year plan for proposed network improvements and upgrades and no longer requires ETCs provide equal access;

Whereas the FCC has adopted more specific measures to track deployment, including annual reporting of service to geocoded locations and certifications of compliance with benchmark milestones, provided a "more defined yardstick by which to measure their progress towards the universal availability of voice and broadband service" in winning bidders designated service areas;

Whereas, Applicant is required to maintain a functional network in emergency situations;

Whereas, Applicant is required to commit to objective measures to protect consumers;

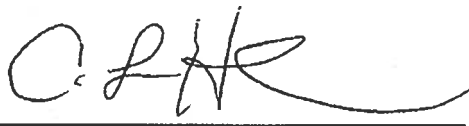
Lifeline service does not distinguish between toll and non-toll calls in the pricing of the service.

5. As an ETC, Applicant agrees to provide access to emergency services for its customers in remote and currently unserved and underserved portions of the 327 census blocks for which it seeks ETC designation.
6. As an ETC, Applicant agrees to provide ORS with the list of census blocks and the estimated cost provided to the FCC for upgrading the census blocks within seven days of ETC designation.
7. As an ETC, Applicant agrees to provide estimated timelines for each census block it proposes to serve.
8. As an ETC, Applicant agrees to offer a Lifeline Broadband option for each census block that it has been awarded RDOF upon completion of construction to that census block.
9. As an ETC, Applicant will advertise these offerings in a manner that is designed to fully inform potential customers of the supported services available to them, to disclose all associated rates, and to ensure that qualifying low-income individuals are informed about the availability and cost of Lifeline programs.
10. As an ETC, Applicant, pursuant to FCC regulations, must: (1) certify that it will comply with the service requirements applicable to the support that it receives; (2) demonstrate its ability to remain functional in emergency situations; (3) demonstrate that it will satisfy consumer protection and service quality standards.
11. As an ETC, the Applicant agrees to report to the FCC and the Commission on a quarterly or annual basis the number of unfulfilled requests for service, as required.

19. Subject to the provisions set forth herein and compliance with regulatory assessments such as the Dual Party Relay Fund, the South Carolina Universal Service Fund, and gross receipts, where applicable, ORS does not oppose the Application of CarolinaConnect Cooperative, Inc. for designation as an eligible telecommunications carrier.
20. As an ETC, Applicant will not "cream-skim," that is, Applicant intends to fully comply with its obligation to serve all census blocks assigned to it in accordance with the milestones set forth in the RDOF Order.
21. ORS is charged by law with the duty to represent the public interest of South Carolina. Pursuant to S.C. Code § 58-4-10(B) (Supp. 2018) 'public interest' means the concerns of the using and consuming public with respect to public utility services, regardless of the class of customer and preservation of continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.
22. ORS believes the Stipulation reached among the Parties serves the public interest as defined above. The Parties agree that this Stipulation is reasonable, is in the public interest, and is in accordance with law and regulatory policy.
23. ORS agrees to support expedited review for the Applicant as it has agreed to the terms and conditions of ETC designation. This Stipulation contains the complete agreement between the Parties regarding the Application. There are no other terms or conditions to which the Parties have agreed.
24. The Parties agree to advocate that the Commission accept and approve this Stipulation in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and that the Commission take no action inconsistent with its adoption. The

signature pages combined with the body of the document constituting an original and provable copy of this Stipulation. The Parties agree that in the event any Party should fail to indicate its consent to this Stipulation and the terms contained herein, then this Stipulation shall be null and void and will not be binding on any Party.

[PARTY SIGNATURES TO FOLLOW ON SEPARATE PAGES]

A handwritten signature in black ink, appearing to read 'C. Lessie Hammonds', is positioned above a horizontal line.

C. Lessie Hammonds, Esquire
South Carolina Office of Regulatory Staff
1401 Main Street, Ste. 900
Columbia, SC 29201
803-737-0803
lhammonds@ors.sc.gov

EXHIBIT A

**LIST OF CENSUS BLOCKS IN WHICH
APPLICANT SEEKS DESIGNATION
AS A HIGH COST AND LOW-INCOME (LIFELINE)
ELIGIBLE TELECOMMUNICATIONS CARRIER**

450630209051027	450630214041012	450719506021044	450819603001015
450630209051029	450630214041013	450719506021056	450819603001016
450630209051067	450630214041014	450719506021085	450819603001017
450630209061024	450630214041017	450819602022000	450819603001018
450630209062016	450630214041018	450819602022001	450819603001019
450630212042000	450630214041019	450819602022002	450819603001020
450630212042007	450630214041020	450819602022003	450819603001023
450630212042008	450630214041021	450819602022004	450819603001024
450630212042043	450630214041022	450819602022006	450819603001027
450630212061001	450630214041023	450819602022007	450819603001029
450630212061003	450630214041024	450819602022008	450819603001030
450630212061043	450630214041025	450819602022011	450819603001031
450630213031001	450630214041026	450819602022013	450819603001032
450630213031003	450630214041027	450819602022015	450819603001033
450630213031004	450630214041028	450819602022016	450819603001034
450630213042047	450630214041029	450819602022017	450819603001035
450630213042048	450630214041030	450819602022020	450819603001036
450630213042069	450630214041031	450819602022023	450819603001039
450630213042085	450630214041032	450819602022024	450819603001040
450630213051004	450630214041034	450819602022026	450819603001043
450630213051005	450630214041035	450819602022028	450819603001044
450630213051102	450630214041036	450819602022029	450819603001046
450630213051103	450630214041037	450819602022031	450819603001048
450630213051105	450630214041039	450819602022032	450819603001049
450630213051106	450630214041040	450819602022084	450819603001050
450630213051111	450630214041041	450819602022085	450819603001052
450630213051112	450630214041042	450819602022086	450819603001053
450630213051117	450630214041043	450819602022089	450819603001054
450630213051129	450630214041044	450819602022090	450819603001056
450630213051130	450630214041045	450819602022092	450819603001057
450630213051137	450630214041048	450819602022093	450819603002002
450630213051138	450630214041049	450819602022096	450819603002006
450630213071052	450630214041050	450819602022100	450819603002007
450630213071053	450630214041059	450819602022101	450819603002008
450630214041000	450630214041088	450819602022104	450819603002010
450630214041001	450719505024086	450819602022105	450819603002011
450630214041002	450719506021001	450819603001004	450819603002012
450630214041003	450719506021004	450819603001005	450819603002013
450630214041004	450719506021005	450819603001006	450819603002019
450630214041005	450719506021012	450819603001008	450819603002020
450630214041006	450719506021013	450819603001009	450819603002022
450630214041007	450719506021017	450819603001010	450819603002023
450630214041008	450719506021019	450819603001011	450819603002025
450630214041010	450719506021023	450819603001012	450819603002028
450630214041011	450719506021026	450819603001013	450819603002044

450819603002046	450819603002072	450819603002099	450819603003006
450819603002047	450819603002075	450819603002100	450819603003038
450819603002048	450819603002076	450819603002102	450819603003043
450819603002049	450819603002077	450819603002103	450819603003044
450819603002050	450819603002079	450819603002106	450819603003056
450819603002051	450819603002089	450819603002107	450819603003058
450819603002052	450819603002093	450819603002108	450819603003059
450819603002055	450819603002094	450819603002110	450819603003063
450819603002058	450819603002095	450819603002113	450819603003064
450819603002059	450819603002096	450819603002116	450819603003065
450819603002061	450819603002097	450819603002117	450819603003066
450819603002068	450819603002098	450819603003001	